In the High Court of Punjab and Haryana, at Chandigarh.

Civil Revision No. 5116 of 2011

Date of Decision: 25.8.2011

Jagir Singh

…Petitioner

Versus

Rajwinder Kaur and Another

…Respondents

CORAM: HON'BLE MR. JUSTICE KANWALJIT SINGH AHLUWALIA.

Present: Ms. Sonia G. Singh, Advocate
for the petitioner.

Kanwaljit Singh Ahluwalia, J. (Oral)

The present revision petition has been filed assailing the order dated 5.8.2011 (Annexure P2), passed by the Court of Additional Civil Judge (Senior Division), Phagwara, whereby objections filed by the petitioner, father-in-law of respondent No.1-Rajwinder Kaur, have been dismissed.

Learned counsel for the petitioner submits that the Civil Court held respondent No.1-Rajwinder Kaur wife of Sepoy Santokh Singh entitled to pensionary benefits because of death of her husband. He further submits that in the year 2006, respondent No.1 had re-married, therefore, she was not entitled to claim pension. However, during the course of arguments, learned counsel has very fairly submitted that the Civil Court decree was passed in the year 2008, therefore, the fact of re-marriage of respondent No.1 ought to have been brought to the

notice of the Court. It is further submitted that Regular Second Appeal No. 5103 of 2010, preferred by the petitioner, is pending in this Court wherein disbursement of 50% of the decretal amount has been stayed. Learned counsel further submits that the Executing Court, while deciding the objections filed by the petitioner, ought to have taken into consideration the fact that respondent No.1 had re-married in the year 2006 and hence, she was not entitled to arrears of pension.

This Court is of the view that the Executing Court in no way can examine the validity of the decree. For modification of the decree, a lawful remedy is available to the petitioner.

Hence, no interference is warranted in the present revision petition and the same is hereby dismissed, in limine.

(Kanwaljit Singh Ahluwalia)
Judge

August 25, 2011
"DK"